

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 30, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAY W. FINCH,

Defendant.

No. 4:25-CR-06013-MKD

PROTECTIVE ORDER REGARDING
COMPUTER FORENSIC REVIEW
PROCEDURES FOR CHILD
PORNOGRAPHY CONTRABAND,
AND ORDER GRANTING MOTION
TO EXPEDITE

ECF Nos. 29, 30

Before the Court are the parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 29, and the United States' related Motion to Expedite, ECF No. 30. Given the nature of the allegations in this case, the parties move to impose forensic review procedures pursuant to 18 U.S.C. § 3509(m). The Court has reviewed the motions and the record and is fully informed. The Court finds good cause to grant the motions.

Accordingly, **IT IS HEREBY ORDERED:**

1 **1.** The parties’ Stipulation Regarding Computer Forensic Review
2 Procedures for Child Pornography Contraband, **ECF No. 29**, and the United
3 States’ Motion to Expedite, **ECF No. 30**, are **GRANTED**.

4 **2.** 18 U.S.C. § 3509(m) applies to this case, and the Court is required to
5 deny defense requests to copy, photograph, duplicate, or otherwise reproduce
6 material constituting child pornography if the government makes the material
7 reasonably available to Defendant and provides an ample opportunity for the
8 defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

9 **3.** In order to comply with 18 U.S.C. § 3509(m), and to allow Defendant
10 the greatest opportunity to prepare an effective defense in preparation for trial in
11 this matter, the government will make a true forensic, bit-by-bit E01 image of
12 devices and media containing alleged child pornography contraband at issue in the
13 above-referenced case. The government will make that forensic image reasonably
14 available to Defendant and provide ample opportunity for the defense team to
15 examine it at a government facility in Spokane, Washington. The parties may
16 readdress the Court if there is a need for additional or after-hours access during the
17 course of litigation in the event trial or motion hearings require additional forensic
18 review.

19 **4.** The defense forensic examination will be conducted in an interview
20 room monitored by closed-circuit television (“CC-TV”), without audio feed.

1 While the TV with non-audio feed will ensure the integrity of FBI space and
2 security of its occupants, the video feed is not of sufficient detail or at an angle that
3 would reveal defense strategy. The government and its agents expressly agree that
4 no attempt will be made to record any audio from the workstation and that no
5 attempt will be made to observe the defense team's work product or computer
6 monitor screen at any time. The defense expert may review the feed to ensure that
7 defense strategy is not being compromised at any time while conducting the
8 forensic review.

9 **5.** The defense team¹ shall not make, nor permit to be made, any copies
10 of the alleged child pornography contraband pursuant to this Protective Order and
11 shall not remove any contraband images from the government facility. The
12 defense expert will be allowed to copy any file that is not contraband and compile
13 a report (without contraband images/videos) documenting the examination on
14 removable media at the discretion of the defense expert.

15 **6.** The designated defense expert, Jennifer McCann, will leave at the
16 government facility any equipment, including hard drives, which contain child
17

18 ¹ For purposes of this Protective Order, the term "defense team" refers solely to
19 Defendant's counsel of record ("defense counsel"), Defendant's designated expert
20 ("defense expert"), and a defense investigator.

1 pornography contraband that is identified during forensic evaluation. The parties
2 may readdress this matter with the Court upon notice that the defense intends to
3 retain a different defense expert.

4 **7.** For the purpose of trial, the government agrees to make available a
5 digital copy of any government trial exhibit that contains contraband, which will be
6 kept in the custody and control of the case agent. Upon reasonable notice by the
7 defense, the case agent will also maintain for trial digital copies of any proposed
8 defense exhibit that contains contraband. If the defense team intends to offer,
9 publish, or otherwise utilize any government or defense exhibit contained on the
10 digital copy maintained by the case agent during trial, the case agent shall assist the
11 defense team in publishing or utilizing the exhibit that contains contraband upon
12 notification by the defense team.

13 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
14 and provide copies to all counsel.

15 **DATED** April 30, 2025.

16 s/Mary K. Dimke
17 MARY K. DIMKE
18 UNITED STATES DISTRICT JUDGE
19
20